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EXAMINER

NEWTON, STEPHANIE

ART UNIT	PAPER NUMBER
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3727

MAIL DATE	DELIVERY MODE
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08/02/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,193	Applicant(s) HENIN ET AL.	
	Examiner STEPHANIE NEWTON	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/17/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims **1 and 5-10** of **copending Application No. 11/817719**.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-8 of the instant copending application ('193) are generic to all that is recited in claims 1 and 5-10 of copending application ('719). In other words claims 1 and 5-10 of copending application ('719) fully encompasses the subject matter of claims 1-8 of the instant copending application ('193) and therefore anticipate the claims the instant copending application ('193). Since claims 1-8 of the instant copending application ('193) are anticipated by claims 1 and 5-10 of copending application ('719), the claims of the instant copending application ('193) are not patentably distinct from the claims of copending application ('719). It has been held that the generic invention is anticipated by the species, see *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993)

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, line 3, there is no antecedent basis for “the interior longitudinal edge”.

In claim 6, line 3, there is no antecedent basis for “the exterior longitudinal edge”.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

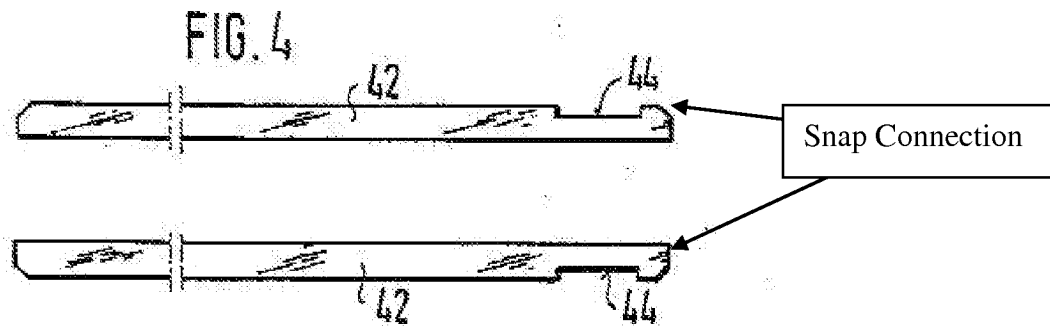
2. **Claims 1-3, 6-8 and 10** are rejected under 35 U.S.C. 102(b) as being anticipated by **Bollen et al. (US 5,493,750)**.

Regarding claim 1, Bollen et al. disclose a windscreen wiper device (**10, Fig. 1**) comprising an elastic, elongated carrier element, as well as an elongated wiper blade (**20, Fig. 2**) of a flexible material, which can be placed in abutment with a windscreen to be wiped, which wiper blade includes opposing longitudinal grooves (**40, Fig. 6**) on its longitudinal sides, in which grooves spaced-apart longitudinal strips (**42, Fig. 5**) of the carrier element are disposed, wherein neighboring ends of said longitudinal strips are interconnected by a respective connecting piece (**22, Fig. 1**), which windscreen wiper device comprises a connecting device (**12, Fig. 1**) for an oscillating wiper arm, characterized in that at least one connecting piece comprises engaging members (**46, 48, 60, 62; Fig. 5**) engaging around the longitudinal strips so

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that said strips are mounted in grooves formed by said engaging members, wherein said strips and said connecting piece are slidably connected by means of a snap connection.

Regarding claim 2, Bollen et al. disclose wherein the snap connection (see **additional annotations of Fig. 4 below**) comprises laterally extending means on said strips.



Regarding claim 3, Bollen et al. disclose wherein said laterally extending means comprise at least one protrusion (see **annotations of Fig. 4 in previous rejection of Claim 2**) extending laterally from a longitudinal edge of each strip (42, Fig. 4), said protrusion being located between stops on the connecting piece (col. 3, lines 19-43).

Regarding claim 6, Bollen et al. disclose wherein said laterally extending means extend laterally from the exterior longitudinal edge of each strip (see **annotations of Fig. 4 in previous rejection of claim 2**).

Regarding claim 7, Bollen et al. disclose wherein the engaging members (46, 48, 60, 62; Fig. 5) are integral with said connecting piece.

Regarding claim 8, Bollen et al. disclose wherein said connecting piece is provided with an opening at its free end so that the wiper blade can freely slide through said connecting piece (col. 3, lines 23-29).

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Regarding claim 10, Bollen et al. disclose wherein opposing longitudinal grooves (**40, Fig. 6**) are formed in the longitudinal sides of an elongate wiper blade (**20, Fig. 6**) of a flexible material, which can be placed in abutment with a windscreen to be wiped, in which grooves longitudinal strips (**42, Fig. 5**) of a carrier element are subsequently fitted in spaced-apart relationship, wherein neighboring ends of said longitudinal strips are interconnected by a respective connecting piece (**22, Fig. 1**), wherein a connecting device (**12, Fig. 1**) is provided for an oscillating wiper arm, characterized in that said strips and at least one connecting piece are slidably connected by means of a snap connection, wherein engaging members (**46, 48, 60, 62; Fig. 5**) of said connecting piece engage around the longitudinal strips so that said strips are mounted in grooves formed by said engaging members.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. **Claims 1 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Boland et al. (ABSTRACT of EP 1568559)** in view of **Jandion et al. (EP 1491416)**.

Regarding claim 1, Boland et al. disclose a windscreen wiper device (**1, Fig. 1**) comprising an elastic, elongated carrier element, as well as an elongated wiper blade (**2, Fig. 1**) of a flexible material, which can be placed in abutment with a windscreen to be wiped, which wiper blade includes opposing longitudinal grooves (**3, Fig. 1**) on its longitudinal sides, in which grooves spaced-apart longitudinal strips (**4, Fig. 1**) of the carrier element are disposed, wherein neighboring ends of said longitudinal strips are interconnected by a respective connecting piece (**6, Fig. 1**), which windscreen wiper device comprises a connecting device (**7, Fig. 1**) for an oscillating wiper arm (**8, Fig. 1**).

The ABSTRACT of Boland et al. is silent in disclosing at least one connecting piece comprises engaging members engaging around the longitudinal strips so that said strips are mounted in grooves formed by said engaging members, wherein said strips and said connecting piece are slidably connected by means of a snap connection.

However, Jandion et al. teach at least one connecting piece (**6, Fig. 2 and Fig. 5**) comprises engaging members engaging around the longitudinal strips (**4, Fig. 2**) so that said strips are mounted in grooves **916, Fig. 5**) formed by said engaging members wherein said strips and said connecting piece are connected by means of a snap connection.

Therefore, it would have been obvious to one of ordinary skill in the art during the time the invention was made to modify the wiper device of Boland et al. based on the aforementioned

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teachings of Jandion et al. since doing so would provide a more secure coupling of the connecting piece.

Regarding claim 9, Boland et al., as modified by Jandion et al., disclose wherein a spoiler (**18, Fig. 1**) is provided and wherein an end of said spoiler is mounted in said connecting piece (**6, Fig. 1**).

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bollen et al. (US 5,493,750)** in view of **Kotlarski (US 6,668,419)**.

Regarding claim 4, Bollen et al. disclose all of the above recited subject matter with the exception of said laterally extending means comprise at least two stops extending laterally from a longitudinal edge of each strip, said stops being located on opposite sides of a protrusion on the connecting piece.

However, Kotlarski discloses a longitudinal strip (**36; Fig. 6**) comprising at least two stops (**66, 40; Fig. 6**), said stops being located on opposite sides of a protrusion on the connecting piece.

Therefore, it would have been obvious to one of ordinary skill in the art during the time the invention was made to modify the laterally extending means based on the aforementioned teachings of Kotlarski for a more secure coupling between the strips and the connecting piece.

Regarding claim 5, Bollen et al. disclose all of the above recited subject matter with the exception of wherein said laterally extending means extend laterally from the interior longitudinal edge of each strip.

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However, Kotlarski discloses a longitudinal strip (**36, 38; Fig. 6**) comprising an interior longitudinal edge (**40, 42; Fig. 4 see also col. 4, lines 37-48**) which engages a protrusion of the connecting piece.

Therefore, it would have been obvious to one of ordinary skill in the art during the time the invention was made to modify the laterally extending means based on the aforementioned teachings of Kotlarski for a more secure coupling between the strips and the connecting piece.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE NEWTON whose telephone number is (571)270-1662. The examiner can normally be reached on Monday- Friday 8:30a-6p est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272- 4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/STEPHANIE NEWTON/

Examiner, Art Unit 3727

/Monica S. Carter/

Supervisory Patent Examiner, Art Unit 3727